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THE CHARGE to the JURY:

OR, THE

Sum of the Evidence,

ON

The TRIAL of *A. B. C. D.* and *E. F.*
ALL M. D.

On the DEATH of one

ROBERT at *ORFUD.*

(*Price One Shilling.*)

THE
CHARGE to the JURY
OR, THE
Sum of the Evidence,
ON
The Trial of A. B. C. D. and E. F.
ALL M. D.
For the DEATH of one
ROBERT at ORFUD,

Special Commission of Oyer and Terminer held at [illegible]

Sir ASCULAPIUS DOSEM, Dr. TIMBERHEAD, and Others, their Fellows, Justices, &c.

LONDON:
Printed for M. COOPER, at the Globe in Paternoster-Row. 1745.

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THE

CHARGE to the JURY:

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Sum of the Evidence,

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The TRIAL of *A. B. C. D.* and *E. F.*

ALL M. D.

For the DEATH of one

ROBERT at *ORFUD*,

AT A

Special Commiſſion of *Oyer* and *Terminer* held at *Juſtice*-COLLEGE, in *W——ck-Lane*,

BEFORE

Sir ASCULAPIUS DOSEM, Dr. TIMBERHEAD, and Others, their Fellows, Juſtices, *&c.*

——*Tempus erit magno cum optaverit emptum*
Intactum Pallanta. VIRG.

LONDON:

Printed for M. COOPER, at the *Globe* in *Pater-noſter-Row*. 1745.

A

MVSEVM
BRITAN
NICVM

AT a ſpecial Commiſſion of *Oyer* and *Terminer*, held at *Juſtice College* in *W——k Lane*, before Sir *Æſculapius Doſem*, Dr. *Timberhead*, and others Juſtices, *&c.*

A. B. C. D. and *E. F.* all *M. D.* were indicted for the Death of one ROBERT *at* ORFUD; and the Trial (which was very long) being over, Sir *Æſculapius* proceeded to ſum up the Evidence in the following manner.

Gentlemen of the Jury,

A. B. C. D. and *E. F.* ſtand indicted for the Death of one *Robert at Orfud*; the ſaid *A. B.* for that he, with a certain *deadly Inſtrument*, called a LICKLIVERUM LITHONSKIPTICUM, the Body of the ſaid *Robert* at *Orfud* did pill and potion, And the ſaid *C. D.* and *E. F.* for being comforting, aiding, abetting, preſcribing, doſing, pilling, and potioning.

As to the Objection, which the Defendant's Council took to the Indictment, *viz.* That the Word *Lithonskipticum* is nonſenſical and illiterate, for that it ſhould be *Lithoskipticum*, as the *Greeks* in all their compoſite Words of this kind do reject the

n final, of which they gave many Instances: This hath received a very sufficient Answer from the other Side, the Word having been always used by the Defendant in this Sense, and in this Spelling. I shall now therefore enter into the Evidence; but before I do so, Gentlemen, I think it my Duty to observe to you, that this is a Prosecution of a very singular kind. The whole Offence charged on the Defendants is a Mistake only; for which, if you should convict them of it, they will be entitled to their COLLEDGE, *i. e.* their Clergy.

I must observe farther to you, that this Trial is brought on by the Culprits themselves, or their Friends, who being dissatisfied at the Report spread abroad by one *Narrative*, have insisted on this solemn Delivery by their Country.

It is your Charge therefore to enquire whether they be guilty of this Indictment.

And, Gentlemen, the Evidence which hath been laid before you to prove it may be reduced to these Heads.

First, That the *Culprits* have asserted, *that there is very little or no Blood in the human Bladder*; whereas in Truth and in Fact there is Blood there. And this, Gentlemen, is laid to be an Error in Opinion.

Secondly, That the LICKLIVERUM was potioned and prescribed into the deceased in very large Quantities.

Thirdly,

Thirdly, That no Man alive, unless one of the *Culprits*, knows what this LICKLI VERUM is.

Fourthly, That every Man knows it did the Deceased no Good, and therefore the long Continuance of it was contrary to all good Practice, especially as it may be supposed to have done him Harm, *&c.* And these three last, Gentlemen, are laid to be Errors in Practice.

In order to prove this Charge on the Defendants, they call for the Prosecutor, first, *Serjeant John Narrative.* In what Capacity this Person is a *Serjeant*, *non constat*: but by the Treatment which he hath received from the Culprits, and their Witnesses, I think you cannot take him for more than a *Serjeant of the Foot-Guards* at the highest.

The *Serjeant* I must confess hath given you a very plain, succinct, and I believe impartial Account of this Affair. It will be needless for me to repeat his Evidence over to you; the rather, as he seems so far from designing to raise any Charge against the Defendants, that those Particulars, which appear to affect them, (if indeed any do) have been *extorted* from him by the Prisoners themselves and their Council, and have, to say the Truth, been principally made material *by their Defence.*

The Serjeant tells you, that one of the Culprits was of opinion, that *the Bladder being furnished with but few Blood-Vessels, could not supply any great Quantity of Blood*; and that another went still farther, and asserted, that ALL *Discharges of Blood flowed not from the Bladder, but from the Kidneys*. He tells you likewise, that the *Lixivium* was prescribed in very great Quantities, a very great number of Ounces, and that it was potioned into the Deceased. He seems likewise to be of opinion, that the Deceased did not receive any great good from this potioning; which may indeed be somewhat concluded from one Circumstance agreed, as it is, on all hands; and that is, *that he grew daily worse and worse*.

In the next place, Gentlemen, they endeavour to produce the Authority of one *Aretæus*, who directly affirms, as they say, that *there is Blood in the Bladder*. Now the Council for the Prisoners have very properly objected to the reading this Evidence: for first, this *Aretæus* is a very antient Author, and it is possible what was to Practice in his Days is by no means Practice now. He is to be considered as a mere *Physical Year-Book*, and is most probably contradicted by a hundred subsequent Cases. There is a Case expressly in point to this Purpose, where the Question being

being, whether or no the Heart was on the left Side, and the Liver on the right, as was supposed by the Antients, it was held, that the *Colledge had now altered all that.* And surely nothing can be more consistent with Reason; for if it be admitted, that the human Body undergoes so total a Change in seven Years, as not to contain a single Atom of its former self, what Change may we not suppose it to have undergone in seventeen hundred? So that tho' the Bladder might contain Blood *Tempore Aretæi, non sequitur*, that it doth so at this Day.

Secondly, he is a *Greek*, and *Græcum non potest legi, cannot be read in Evidence:* for why, Gentlemen, should the Physic of the *Greeks* be more binding to our Physicians, than their Theology to our Divines, or their Statutes to our Lawyers? Of this Evidence therefore, Gentlemen, you are to take no notice; for, as it was well said at the Bar, it would be very hard if Men should be governed by Authorities, which the Law doth not intend them to be able to read: And very great Inconveniencies might ensue from admitting such kind of Evidence; no less perhaps than the total Subversion of the present established Rules of Physic. Many a *good Judgment* might be reversed, under which the Patient hath been long time at peace in his Grave; for some obscure Point in *Galen* and *Hippocrates*

might

might prove that he was not committed thither *secundum artem*.

The next Witness, Gentlemen, is Mr. *Advice*, who tells you, That *to go on to plie the deceased with the* Lickliverum *when Matters proceeded from bad to worse (to say the least of it) savours of Obstinacy.* He then proceeds to make many Reflections on the Proceedings of the Defendants, which he avers the Truth of by a very strong Figure in Speech, *viz. Passing them over in Silence.*

This, Gentlemen, is the whole Charge against the Defendants, and so slight a one might, in my Opinion, have been very well over-looked by them, without *endeavouring to bring themselves to a Trial*; nay, they might have left it with you safely on their Trial, without attempting any Defence: For I must observe to you, that as to all the latter and principal Part of the Charge, there is not a Tittle of Evidence. However, as they have thought proper to go into their Defence, it is my Duty to lay it before you.

As to the many Scurrilities which their Witnesses (particularly one *Hack*, of *Grub-street*) have thrown on the Character of the Serjeant, they give me only occasion to lament that Trials of this kind can never be carried on without them: But I cannot help taking notice, that as they are improper

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and unjuſt, ſo they are totally without Cauſe. For, as the Serjeant could not have omitted what he hath done, without being a diſhoneſt Man; ſo, it is impoſſible for any Man in doing it, to preſerve more Candour towards the Defendants.

Who, Gentlemen, in their Defence, call you one Mr. *Anonymus* *? And he tells you, in order to induce you to believe that the Culprits were not miſtaken, that the Blood-Veſſels of the Bladder are ſmall in compariſon of thoſe of the Kidneys †, and therefore leſs likely to throw out large Quantities of Blood. And he tells you that *the Mother of the Deceaſed had a Stone in her Kidneys* ‡; a very ſtrong Argument, Gentlemen, if ſtrictly attended to; eſpecially if you conſider it was, as he tells you, only a Suſpicion; that one of the Culprits was never *poſitive in his Opinion* ||, till 40 Ounces of Blood occaſioned *a more poſitive* Declaration ** from him. So that, Gentlemen, if you believe this Witneſs, no *poſitive Opinion* can even at laſt be charged on him: And ſurely it would be the hardeſt Caſe imaginable to puniſh a Man only for *ſuſpecting* a Stone to be in the Kidneys, when any Man alive without being either a Phyſician or a Conjurer, might almoſt have ſworn that this Suſpicion was true. As

* Letter from a Phyſician in Town to another at *Bath*.
† Letter, p. 5. ‡ Ib. p. 7. || Ib. p. 5, & 8.
** Ib. p. 5.

As to another of the Culprits, the Witneſs tells you, That upon the Relation which the Deceaſed made of the Caſe; he being deſired to give his Thoughts without being firſt permitted to confer with the former Culprit, declared his Opinion to be, That the Deceaſed HAD A STONE IN HIS BLADDER †: For which ſolemn Declaration, the Witneſs gives you ſeveral Reaſons, and amongſt the reſt, his Mother's having had one before him.

He goes on, Gentlemen, and tells you, that upon the Deceaſed his doubting whether this Opinion was right, the ſaid Culprit was farther of Opinion, THAT HE SHOULD BE SEARCHED ‡. And ſurely, Gentlemen, there could be no fairer Method of trying whether he was in the right or no. To which I add, the excellent and concluſive Reaſon given by the Witneſs for this ſecond Opinion, *viz. In order before they took any Method to diſſolve it, that they might* COME AT *a Certainty whether there was a Stone in the Bladder, or no* ‖: Concluding, doubtleſs, that, if there was none there, no *Lickliverum* in the World could diſſolve it.

The Witneſs next applies himſelf to a Branch of the Indictment, upon which no Evidence was given, *viz.* That no Man alive, except one of the Culprits, knows what this

† Letter, p. 6. ‡ Ib. p. 8. ‖ Ibid.

this *Lickliverum* is. I ſhall however, briefly collect the Subſtance of what he hath delivered hereon.

And, Gentlemen, he tells you, firſt, that one of the Culprits who agreed to this Doſe, did not know what it was, yet he knew *what the other Culprit had declared to any body that asks about it* *.

Secondly, That this other Culprit is not obliged to expoſe the Compoſition of this Doſe to the World, becauſe, Firſt, *He hath given it to his Apothecary.* Secondly, *Becauſe he is not obliged to give his Apothecary a pecuniary Gratification in its ſtead* †.

Thirdly, *He did once intend to have made it public, but changed his Mind; becauſe,* Firſt, *another Apothecary might not make it ſo well;* and ſecondly, *might not ſell it ſo cheap* ‡.

In the next place, Gentlemen, this Witneſs tells you, in direct Contradiction to the Evidence of Mr. *Advice,* that Matters were ſo far from going from bad to worſe, that it was impoſſible they ſhould do ſo, for that the bad *Symptoms being conſtant before, could not be afterwards more than conſtant* ‖: And in another Part of his Evidence, this ſame Witneſs hath told you, that Matters were bad *enough* before this

* Letter, p. 10. † Ib. p. 11. ‡ Ib. p. 12.
‖ Ib p. 15.

Lucklivenum was applied. So that you cannot conclude that they proceeded from bad to worſe by the Uſe of that Medicine; and whether they proceeded from bad to better is not material, nor the Subject of your Enquiry; nor is any ſuch Thing attempted to be proved to you; for no ſuch Proof is expected from the Defendants.

The Serjeant had told you, that the Flux of Blood on *January* was more than ordinary. BE IT ſo, ſays the Witneſs, *more than what the Deceaſed ordinarily had*, (i. e. I ſuppoſe when he was well) *but was it almoſt pure Blood, was the Diſcharge ſuch, that it could not with any Juſtice lay claim to the Name of Urine* *? Now, Gentlemen, as to that you are to know that there are two Sorts of Urine. Urine in Fact, and Urine in Law. The former of theſe being Urine proper, or that which hath all the Qualities of Urine, *viz.* Colour, Smell, *&c.* The latter is that, which tho' it hath not any of theſe, may, however, *with ſome Juſtice, lay claim to the Name of Urine*, as undoubtedly this muſt: Firſt, as it was not pure Blood; Secondly, as it came from the Bladder, where very little or no Blood is: Thirdly, as it came through a certain Vehicle deſigned by Nature not for the Conveyance of Blood, but other Liquors; and in Perſons of the Age

* Letter, p. 16.

Age of the Deceaſed, for the Conveyance of Urine only. And, Gentlemen, from what do the ſeveral Liquors which diſtil from the human Body take their Names, but from the particular Parts whence they flow? Thus, what diſtils from the Pores is called Sweat; what is diſcharged by the Mouth, Spittle; thoſe which come from the Ears, Noſe, Elbows, *&c.* have all their ſeveral Appellations derived from their ſeveral Conduits, tho' ſome of them very much reſemble each other. And thus, Gentlemen, this Liquor flowing through that Part often mentioned to you in the Courſe of this Evidence, may certainly *with ſome Juſtice lay claim to the Name of Urine.*

The Witneſs goes on in theſe Words: "Had the Diſcharge of Blood been greater, "was it not ſucceeded by the voiding a conſiderable Quantity of gritty Matter of the "Colour of common Houſe-Sand? And "was not *this Diſcharge* a Reaſon for the "*Culprits* to proceed with the *Licklive-rum*; eſpecially as one of them declared "his Opinion to be, that the gritty Matter "or Gravel that then came away, was from "a ſoft Stone half diſſolved and cruſhed in "the Paſſage; which Opinion ſeems *fa-voured* by the Greatneſs of the Pain the "Deceaſed ſuffered?"*

This Evidence, Gentlemen, the Council for the Proſecution have endeavoured to

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* Letter, p. 17.

ridicule; and one of them in particular hath asked, whether this *great Diſcharge of Blood and Stones* FAVOURED *with the Greatneſs* of Pain, might not occaſion that Fever of which they would have you believe the Deceaſed had all the apparent Symptoms, and of which they would likewiſe inſinuate that he died. And then, Gentlemen, they ask, with a Sneer, whether this Diſcharge and Pain were the Recommendations of this *Lickliverum?*

On the other Side, Gentlemen, it is very well anſwered by the Council for the Defendant, That PAIN, notwithſtanding the Opinion of the Vulgar, is one of the beſt Symptoms which a Phyſician can wiſh to produce. That a very wiſe Sect of ancient Philoſophers maintained it was no Evil, in which Opinion the learned Faculty do concur; with this Difference only, that the Stoics ſpeak of themſelves, and the Doctors of their Patients. That Pain is one of the greateſt Privileges which Life can boaſt over Death; nor can Death ever come while the Phyſician can preſerve the Patient in Pain: For during the Continuance of that wholeſome Symptom, no Mortification happens either to the Patient or his Doctor. And all this, Gentlemen, they confirm from two Caſes in Point. The firſt is in *Sydenham's* Reports, Fol. *Pain is Nature's moſt bitter Medicine.* The other is in a Book

of

of as high phyſical Authority as moſt extant. I mean, one of the learned Dr. *Moliere*'s Phyſical Eſſays; where the Doctor having aſked his Patient how he does, he anſwers, *In great Pain*; to which the Doctor replies, *So much the better*.

But, Gentlemen, the *Lickliverum* can not only produce that wholeſome Symptom Pain; it can likewiſe give that more pleaſant one, Eaſe: Which the Witneſs tells you, happened to the Deceaſed, after voiding a ſmall Stone and ſome Gravel. The only Doubt which the Witneſs makes here, is, whether that Effect proceeded from the *Lickliverum*; and the only Reaſon of his Doubt is, that *the very ſame had happened to the Deceaſed more than once, in the Country, before any of the* Lickliverum *had been potioned into him* *. So that, Gentlemen, you ſee this *Lickliverum*, concerning which the Defendants are queſtioned, is one of the moſt ſovereign Medicines in the World, having indeed, the contrariant Qualities of that excellent Weed *Tobacco Illa*; and indeed it were well to be wiſhed, that the Defendant, who is poſſeſſed of this invaluable *Noſtrum*, would now communicate it to the World, ſeeing that one Apothecary, after *this Publication* of its great Virtues, will never be able to make enough to anſwer the general Demand; eſpecially ſince there is, as the Witneſs informs you, *ſome*

* Letter, p. 19.

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Nicety in the Preparation, which cannot well be HIT OFF, *but by one who hath made the Medicine often* *. Non ex quovis Ligno fit Lickliverum Lithonskipticum.

The Witneſs being asked by ſomebody, (I don't know whom) why the Defendants did not ſettle the Point whether the Blood was diſcharged by the Kidneys or the Bladder; anſwers, becauſe they did not debate it: For, ſays he, *if they had debated it,* BEING ALL FRIENDS, *they would have* UNDOUBTEDLY *agreed in Opinion, as they* ALWAYS *did in what* was the Subject of their Debates †. And this muſt infuſe into you an Opinion of their great Good-Breeding.

The Witneſs then, Gentlemen, goes on to account for the Hopes which the Defendants entertained that the Deceaſed might recover. Upon this Head I own he is a little confuſed; which I muſt obſerve to you generally happens when any Perſon begins with theſe Words, (as the Witneſs does) IN ORDER TO CLEAR UP THIS POINT. However, he tells you in expreſs Words, "That "there was a Loſs of at leaſt forty Ounces "of Blood in the compaſs of a few Hours; "and this in a Man who never bore bleed-"ing well, being always faint and low af-"ter taking away any conſiderable Quan-"tity, and who was now near ſeventy Years "of Age, which might very well occaſion "the

* Letter, p. 12. † Ib. p. 19, and 20.

"the Symptoms the Serjeant mentions; as "the Coldneſs and Clammineſs of his "Hands, the ſinking of the Pulſe, and the "leaping of the Tendons, which the Wit-"neſs ſays, he makes no doubt was "the Caſe *." Now, Gentlemen, I muſt own that this Evidence, at the firſt Bluſh, ſeems to make againſt the Defendants, and a Perſon with no Imputation of being illiterate, if he was not an Adept *in Arte Medica*, might have ſome Difficulty to find out on which of theſe Symptoms, or whether on all taken together, the Defendants founded their Hopes; and accordingly the Council for the Proſecution have triumphed greatly, telling you facetiouſly, that a reaſonable Man could not *hope* for above a Fee more at the moſt. To this however, a very ſatisfactory Anſwer hath been given by two *Dicta* of great Authority, which have been cited on the other Side, and by which I muſt ſay, the Defendants were fully juſtified in the Hopes they entertained; and both theſe *Dicta* are expreſly in Point. Firſt, *That while there is Life*, (and that it is acknowledged on all hands there was) *there is* Hope. Secondly, *That when Things are at the worſt* (which was certainly the Caſe here) *they will mend.*

In the next place, Gentlemen, the Witneſs ſpeaks to the Character of Mr. *Advice*, who he ſays, with ſome Bitterneſs, is *a Phyſician*,

* Letter, p. 20, 21.

ſician, and a Man of Learning, HE HOPES NOT OF THE COLLEDGE *; indeed I hope ſo too. Now I muſt obſerve to you, that however ſcandalous the Character of a Man of Learning may be in any Society, and that on very wiſe and good Grounds, yet ſuch Character cannot impeach his Evidence: for tho' perhaps it is highly fit and proper to diſcourage Learning in all Profeſſions, and we accordingly ſee it practiſed in them all; yet the Characters of Learning and Honeſty imply no abſolute Contradiction, and may be intended ſo to ſtand together, that it is not a ſufficient Exception to the Belief of what ſuch a Perſon depoſes.

The next material Circumſtance which the Witneſs tells you, is, Gentlemen, in Anſwer to the Serjeant who had ſaid, that "What put them on preſſing the Operation of the *Catheter*, was to draw from "the Bladder the grumous Blood, and "thereby reſtore that Veſſel to its former "Tone."

Here, ſays this Witneſs, *was abundant room for Reflection; here was indeed an Error, and one that needed no Aggravation.* THREE GRAVE *and learned* DOCTORS, *ſitting in deep Conſultation, take it into their wiſe Heads, that Clots of coagulated Blood may be drawn off thro' the* Catheter! He then proceeds to this Que- "ſtion: Now in this Particular, who doth

* Letter, p. 21.

"not

"not ſee, that the whole is owing to a "little piece of Inadvertence in the Ser- "jeant, who ſhould have ſaid, the Phyſi- "cians propoſed to draw off the Urine"*.

To this, Gentlemen, the Council for the Proſecution have attempted to reply; That this could hardly be the Meaning of the Doctors, becauſe the Serjeant had already told you, that "at this time, the Urine impregnated "with this grumous Matter, RATHER EX- "CEEDED IN QUANTITY ALL HE DRANK; "wetting four or five and thirty Napkins "every twenty-four Hours." To this they add an Expreſſion, which hath before dropt from the Defendant's Witneſs; that the Deceaſed was attended with ALMOST INCES- SANT MICTURITION; ſo they would perſuade you, Gentlemen, that the Defendants could have no ſuch Motive for this Operation of the *Catheter*, unleſs you will believe they deſired the Deceaſed ſhould, by an artificial Method, do that with Pain, which Nature inceſſantly prompted him to do without it.

But I muſt obſerve to you, Gentlemen, that this Argument proves too much. Had the Urine of the Deceaſed equalled the Liquors which he drank, I own indeed it might be ſome reaſon for you to conclude, that he had none left in his Bladder, and conſequently there was no occaſion for a

* Letter, p. 28, & ſeq.

Catheter to draw it away. But as the Serjeant himſelf informs you, that it *exceeded* that Quantity, *non conſtat* how much it exceeded. As therefore this Urine muſt proceed from ſome other Cauſe beſides that of Drinking, which Cauſe no Law extant can oblige the Defendants to have known, I cannot ſee why the Defendants ſhould be concluded from ſaying, that they uſed the *Catheter* to draw off the remaining Urine, how great ſoever the Diſcharge was in the natural Way. When all the Liquor put into a Bottle is drank out of it, he would be eſteemed a ſilly Fellow who ſhould apply a *Hyphon* to draw off the reſt: For, commonly ſpeaking, no more Liquor can ever be poured out of a Veſſel than is before poured into it; but if we admit, as the Defendants have here, that any Veſſel contains more Liquor than was ever put into it, this Exceſs can never be reduced to any Certainty; ſo you may *hyphon* and *catheter* on to Eternity.

The Witneſs then proceeds in the laſt Place, to ask of himſelf this IMPORTANT Query: *What was it that the Deceaſed died of? And here I muſt confeſs* (ſays he) *I am greatly at a loſs for a clear and ſatisfactory Anſwer.* He then ſhews the ſeveral Things which could not occaſion his Death, and at laſt concludes, *that if that Diarrhœa, which at laſt haſtened his Death,*

Death, could have been ſtopt, he might not have died †.

This, Gentlemen, is the Evidence on both Sides; and I muſt obſerve to you, firſt, with Relation to the Error in Opinion with which the Defendants are charged, *viz.* That the Bladder contains none or very little Blood; the Defendants muſt be acquitted. *Firſt*, Becauſe if you believe their Witneſs, they were in reality of no Opinion at all. *Secondly*, Becauſe, except the Evidence of *Aretæus*, which, as I have obſerved to you, ought not to be read, and therefore, tho' it hath been thrown out to you at the Bar, you ought to lay no Weight upon it: Except this, I ſay there is no other Evidence that this is not true in Fact; beſides the Serjeant's Opinion, who, Gentlemen, may be himſelf miſtaken: And, *Thirdly*, Becauſe it appears to you, that in Fact he is miſtaken: For, as it was urged by the Council, Nature never makes one Thing for ſeveral Purpoſes, and therefore, as we all know, that the Bladder was intended to contain two Things, *viz.* Urine and Wind, it would be highly unreaſonable to look out for a third Uſe.

Now, Gentlemen, with Regard to the *Lickliverum*, the only Queſtion is, Whether you can imagine that occaſioned, or at leaſt contributed to the Death of the De-

† Page 32, 33, 34.

ceaſed, and this moſt certainly you cannot: For, as there is no expreſs Proof on this Occaſion, you are to intend every thing in favour of the Defendants; two Points have been therefore well inſiſted on by their Council. In the firſt place, undoubtedly true it is, that a Man may die without taking this *Lickliverum*. This is too plain to require any Proof. *Secondly*, A Man may take this *Lickliverum* without dying: For, as the Defendants Witneſs hath told you, *one of the Defendants himſelf hath taken twice the Quantity in the ſame Space of Time.* This Evidence was indeed objected to; but the Objection over-ruled by the Court: For tho' it is admitted to be the general Preſumption, that no Phyſician ever takes his own Phyſick, yet *ſtabit Præſumptio donec.*

But, Gentlemen, I muſt obſerve to you, there is one very material Circumſtance, and which muſt abſolutely acquit the Defendants, whatever might be your Opinion on the other Points. And this is, Gentlemen, that it is ſo far from being proved to you, that the Deceaſed is in Reality dead, that the contrary is moſt probable, if not abſolutely certain: For as the Defendants Witneſs hath told you that he cannot tell what the Deceaſed died of; and as we muſt ſuppoſe he hath had frequent Communication with all the Defendants thereon;

thereon; (indeed many Parts of his Evidence ſeem neceſſarily to come from the Defendants themſelves:) a Circumſtance which I do not mention in this particular Caſe to invalidate it; for I believe the honeſt Man hath told you all he knows. Now I ſay, we muſt hence conclude that none of the Defendants do at this time know of what Diſtemper the Deceaſed did die. What then, Gentlemen, is the apteſt Inference you are to draw from thence, but that he is not in Fact dead? For can it be imagined, that after ſo long an Attendance on him while alive, and even after opening his Body ſince his Death, that not one of theſe learned Gentlemen ſhould be able to give any ſatisfactory Anſwer concerning the Cauſe of his Death? To this I know it may be objected, that whatever Force there might be in this Argument, eſpecially in the Caſe of great Men, many of whom have been ſuſpected to be alive even after a public Death, as was the Caſe of *Perkin Warbeck*, the Duke of *Monmouth*, &c. the latter of whom is by ſome very judicious Perſons ſuppoſed to be alive even at this Day; yet, after a ſolemn Opening of the Body, there can be no Latitude for ſuch Conjectures; the natural Death of ſuch Body being a Condition precedent, without which there are no Precedents in Practi ceto juſtify any ſuch Proceeding. To this I anſwer by a very

ry plain Queſtion: Is it not as likely, nay more reaſonable to imagine that this dead Body on which the Defeudants ſat, was in Reality the Body of ſome other Man, or even of ſome other Animal? Would not the Miſtake in this Caſe be much more eaſily accounted for, than the Doubt of the other? Nor is this Miſtake at all improbable, if it be conſidered that one of the Defendants, not making ſo much Haſte to a dead Patient as it is likely he would have done to a living one, did not arrive 'till the Diſſection was over: Nor are we to ſuppoſe that the others were very curious or ſolicitous in their Enquiry; for when the Body is dead, it is out of the Reach of Phyſic as well as of the Law.

Upon the whole, Gentlemen, I think you muſt acquit the Defendants.

Which the Jury immediately did, without withdrawing from the Bar.

ADVER-

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N. B.

N. B. A grave and learned Phyſician having peruſed this Book, ſaid, no Practitioner whatever ſhould venture to make a Viſit without this little Book in his Pocket.

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Note, They are all tranſlated into *Engliſh*.

A
PROJECT
FOR THE
Advancement of Physic in this Island, by abolishing the Coll. &c. Humbly address'd to the said Society.

GENTLEMEN,

As the Welfare of the Publick has always been the principal Object of my Studies, it has been no small Concern to me to have observed the Animosities which have at all Times subsisted, and still continue to subsist, tho in a less Degree, between the different Branches of the Faculty of Physic ——— to wit, between the regular-bred Physicians, or your learned Body, on one hand, and those Ignorantines, or self-taught Practitioners, on the other; upon whom the Ancients bestowed the noble Title of Empirics, but whom we Moderns have endeavoured to degrade,

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degrade, by giving them the leſs honourable Name of *Quacks*. For my own part, as I look upon both Parties to be inliſted in the Service of the Public, and the former, if I may be allowed the Metaphor, to be the regularly diſciplined Troops, the latter, the Huſſars and Pandours of the phyſical Militia, I eſteem their Diſagreement to be a kind of Civil War, tending greatly to the Prejudice of the Public, whoſe Pay they receive; and for that Reaſon, as a hearty Lover of the Community, — I cannot but ſincerely wiſh theſe Animoſities were at an End, and that, for the future, a firm and indiſſoluble Union might be eſtabliſhed between both Parties. I have, therefore, taken the liberty to offer you my Sentiments concerning the moſt proper Method of effecting ſuch an Union, or bringing about a Treaty of Peace, Unity and Friendſhip, (as well offenſive as defenſive) between the learned Society of *W--r--k Lane*, and the *Empiricks* aforeſaid, whereſoever diſperſed, throughout this great Metropolis.

It is poſſible, Gentlemen, that ſome of you may be ſtartled at a Propoſal of this Kind, ſince, by the Laws of your Society,

you

you have obliged yourſelves not to treat with your Adverſaries, or enter into any kind of Commerce with them, leſt you ſhould thereby derogate from the Dignity of your Corps. But if you conſider, Gentlemen, the Times in which thoſe Laws were made, (according to the Directions of your Maſter *Hippocrates*, who in his Book of Precepts, adviſes you to have a regard to *Times* and Occaſions;) and take notice that altho', at the Time when they were made, your Adverſaries were but a very inconſiderable Body of Men, (to ſay no worſe of them) yet, as they have been ever ſince increaſing in Dignity, and in the Eſtimation of People of the higheſt Rank, you will not, I am perſuaded, think it any longer a Diſhonour to you to treat them with a little more Reſpect and Complaiſance, eſpecially ſince the eſtabliſhing a perfect Harmony and Correſpondence between you and them, will greatly tend to promote your mutual Intereſt.

And, indeed, if one may judge of the Sentiments of your Society at large, by the Behaviour of ſome of its Members, there is now greater Reaſon than ever to entertain

tain Hopes of a *Reconciliation*.——Since, if I am not miſinform'd, (for I only ſpeak by Hearſay) there are not wanting Inſtances of ſome who, (to their Honour be it ſpoken) have laid aſide Ceremonials ſo far, as to admit theſe Empiricks to ſome degree of Favour, and even Familiarity, in private, however reſerv'd they may appear to them in public.

To proceed then to my Scheme.——It is confeſſed on all hands, that the principal Matter of Diſpute between your illuſtrious Society, and the noble Fraternity whom I have been ſpeaking of, has always been that of Precedency, or, in other Words, *Who ſhall be uppermoſt*.——And it is no Wonder that there ſhould be ſuch a warm Conteſt between thoſe who are in the College, and thoſe who are out of it, about this invaluable Privilege; ſince it is univerſally allowed, by ſuch as underſtand the true Value of Things, that Rank or Precedency is almoſt the only Thing in Life which is worth contending for: but if it be worth contending for by others, it is certainly more worthy to be contended for by

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Phyſicians, ſince the Profeſſion of it is attended with another, leſs valuable, indeed, but by no means contemptible Acquiſition, *viz.* that of Wealth.——The Deſign of my Scheme is to baniſh all Occaſion of Contention, for the future, by aboliſhing all Diſtinctions, and reducing the contending Parties to a level.———You may object to my Scheme, perhaps, as calculated to deprive you of your Right.——But, tho' I am ready to allow that you were, ſome Ages ago, in Poſſeſſion of this Privilege of Precedency, yet I cannot ſo eaſily allow that you had a Right to the Poſſeſſion of it.——On the contrary, it appears to me, that, as the Empiricks have got the Start of you in the Eſtimation of all the polite and faſhionable World, ſo they are, in reality, ſtrictly intitled to that Precedency; the Poſſeſſion of which, was formerly, contrary to Reaſon and Equity, wreſted from them.

Your Adverſaries Claim to Precedency is founded in two Things:——Firſt, The greater Antiquity of their Sect; and, Secondly, Their ſuperior Merit.——I ſhall conſider each of theſe Claims ſeparately; and

and, if I can make it appear, as I doubt not I ſhall do, that they are your Superiors in both theſe Reſpects, I hope you will then be convinced that I am not going to deprive you of your Rights, but that, on the contrary, you will be Gainers rather than Loſers by my Scheme.

I muſt obſerve then, with regard to the Antiquity of the Empirical Sect, that, upon the moſt diligent Inquiry into this Subject, their Claim appears to me to be well grounded. To ſatisfy myſelf in this Point, I have conſulted moſt of the Hiſtories of Phyſic now extant, and ſhall here preſent you with a few Obſervations on the whole.

To begin then at the Fountain-head; theſe Hiſtories inform us that *Eſculapius* himſelf, who is allowed on all hands to have been the Inventor of the Art of Medicine, was, in the ſtricteſt Senſe of the Word, an Empiric, and uſed to diſtribute his Packets in the Streets (as *Herodotus* ſays) to ſuch as would purchaſe them; which only the loweſt of our Empiricks do at preſent: And a learned Countryman of

ours,

ours, who appears to have been a Favourer of this Sect himſelf, affirms that the *Aſclepiadean* Family, or the Deſcendants of *Æſculapius*, who continued to be the ſole Proprietors of Phyſic for about ſeven hundred Years, were nothing more nor leſs than a Race of Quacks. The two Sons of *Æſculapius*, *Podalirius* and *Machaon*, whom a late Society, (either out of their Affection to the Art, or to ſhew who they are deſcended from) have choſen to be the Supporters of their Coat of Arms, are ſaid to have been very eminent in their Father's Trade; and even *Hippocrates* himſelf is ſuppoſed by ſome to have been of this Sect: but as he was not poſſeſſed of any *Noſtrums*, which are the very Eſſentials of a true Empirick; and beſides, profeſſed to found Phyſic upon Philoſophy, I cannot allow him the Honour to have been of the Number.

It appears from theſe few Inſtances, that the Antiquity of Empiriciſm cannot, with any Shew of Reaſon, be controverted; and that thoſe Hiſtorians muſt have been in an Error, who make one *Seraçion* of *Alex-*

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andria to have been the Founder of the Empirick Sect. For Quackery muſt have been as ancient as the World; and the Reaſon why *Serapion* had the Honour of being thought the Inventor of it, was becauſe he perfected it, and reduced it to an Art. For it is to him that we owe that great Diſcovery, which the preſent Age have taken the Honour of upon themſelves, *viz.* That Reaſoning and Philoſophy are ſo far from having any Tendency to improve the Art of Phyſick, that they are in reality a very great Diſadvantage to it.

But we need not ſearch into Hiſtory for Proofs of the Antiquity of Empiriciſm, ſince it is plain, from the Nature of Things, that it muſt be of much older Date than Rational, or Dogmatical Medicine (as I think you call it) which you, Gentlemen of the College, have always profeſs'd yourſelves to be Admirers of: for rational Phyſick requires the Aſſiſtance of many other ſubordinate Arts, which are not to be attain'd without proper Inſtructors, long Attention, and hard Study, according to that Saying of *Hippocrates*, *Ars longa*, &c.—

But

But the Facility and Quickneſs, with which a Man may become an Adept in Empiriciſm is almoſt inconceivable; it requires no previous Knowledge of Languages or Arts, nor beating of the Brains about Cauſes or Principles, and the philoſophical Reaſon of Things. A Man may learn it without the Aſſiſtance of a Maſter; it is indeed a Sort of *Gift* (as the Empirics in Divinity have it) and at moſt, requires ſome little Help from his Grandmother or his Nurſe.

Having thus fully proved the Antiquity of Empiriciſm, I proceed to my ſecond Head, which is to ſhew the Superiority of the Empiricks to you, Gentlemen Dogmatiſts, in point of Merit.— But this is ſo evident, that I am almoſt aſham'd to undertake the Proofs of it.—The World, in general, and particularly the more Polite, and more exalted Part of them, will readily concur with me in this Opinion.—Time was, indeed, when the Practice of Phyſick was thought ſo difficult and important, that none but Men of the greateſt Learning, Sagacity, and Abilities were permitted to manage it, and upon this foot your College was e-

rected; but the Face of Phyſick has been much changed ſince.—Learning has long been out of Date — and no wonder; for what can be the uſe of beating one's Brains, and deſtroying one's Health, to comprehend the Meaning of old muſty Authors who lived ſome thouſand Years ago—? Can we ſuppoſe the World in its Infancy to have been wiſer than it is now in its Maturity? Theſe Ancients thought, that it was neceſſary for a Man to be a Philoſopher before he commenced Phyſician; but are we obliged to think ſo too? No ſurely — for whatever Uſe Philoſophy may be of to the Mechanick Arts, it is now agreed on all hands, that neither Phyſick nor Divinity were ever yet a Jot the better for it.— But of all Philoſophy the ancient, for the Reaſon juſt now given, muſt ſurely be the worſt. — There is a Faſhion in Phyſick, as well as there is in Dreſs; but if it would be abſuad for us to neglect the preſent Mode, and dreſs ourſelves up in the Habits of the *Greeks*, is it not equally abſurd for us to copy them in the Faſhion of their Phyſick — ?

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The World, 'tis true, continued for many Centuries together in a State of abject Submiſſion to theſe Ancients, and were taught to pay an implicit Regard to the Dictates of an *Hippocrates* or a *Galen*. —And the Matter went ſo far, that even ſo late as the time when your Society was inſtituted, (as I am told) a Man, who was not thoroughly verſed in *Galen*, was thought to be as unqualified to practiſe Phyſick, as a Divine, who had never read his Bible, was to preach.—But a few ſhining Genius's at length aroſe, and aſſiſted us in ſhaking off the Yoke.———How much are we of this Age obliged to one Man in particular, for informing us that the true Method of becoming Phyſicians, was not to flock to the Univerſities, but to apply to *Old Women*, Conjurers, Mountebanks, and the like? And his Reaſon for it was, That theſe ſort of People have more Knowledge in Phyſick, than all the Univerſities put together. I am ſo well pleaſed with the Paſſage, that I cannot help quoting it; *Medicus non omnia, quæ poſſe & ſcire debet, in Academiis diſcere*

& cognoſcere poteſt, ſed opus eſt, ut interdum Vetulas, *Zigeunos, Nigromanticos, Agyrtas, Seniores ruſticos & ſimiles adeat, atque ab iis diſcat. Nam tales de talibus rebus* plus habent cognitionis quam omnes Academiæ. The learned Reader will eaſily ſee, that I am ſpeaking of that great Phyſician, Philoſopher, and Divine, the Profound and Oracular *Paracelſus.*— 'Twas he who laid the Foundation of modern Phyſick, and we ourſelves have had the Happineſs of ſeeing it perfected by the Labours of ſome celebrated Genius's of the preſent Age, who have fully ſhewn us the Reaſonableneſs of excluding Reaſon henceforward from the Art of Phyſick, and rendering it wholly Empirical.———

The Ancients, whom we have been ſpeaking of, entertain'd an idle Notion, that the Principles of all Sciences were certain general and metaphyſical Truths, which were not the Objects of any of the Senſes, but were only diſcoverable by reaſoning: But the wiſer Moderns, (thoſe of the empirical Sect I mean) have deſervedly rejected all ſuch Speculations as idle Traſh;

and

and in purſuance of the common Axiom, *that ſeeing is believing*, are determined to truſt to no Evidence but that of *Senſe*. In ſhort, it is by the Aſſiſtance of theſe Gentlemen, that all Theory has been long exploded, and put to flight, and the idle Notions of the Ancients concerning Principles and logical Deductions laid aſide; and to them, we may ſay, it is owing, that Phyſick is now eſtabliſhed on its proper Baſis, being neither Dogmatical, nor Galenical, nor Chymical, nor yet Mechanical, but purely Experimental, or Empirical—.

You will ſay perhaps, that you are willing to allow the Uſefulneſs of *Experience*, but that you think it neceſſary, that a Phyſician ſhould have ſome Principles to go upon, while he is making Obſervations: that Experience alone is of little uſe, every one being ready to alledge it in his own Favour, tho' one Man's Experience is often directly contradictory to that of another; and you may go ſtill farther, and plead the Authority of your Maſter *Hippocrates*, to ſhew that *Experience is fallible*. But, without entering into this Diſpute, I ſhall only

only ſay, that if Experience be preferable to Reaſoning, (a Doctrine which is now generally maintain'd) it follows of Courſe, that the more time is allotted to making Experiments, and the leſs to Reaſoning, the better; and conſequently it would be beſt of all, if we were never to employ our Thoughts about Theory at all, nor trouble ourſelves about Inquiries concerning Principles, the Nature of the human Body, or its Operations.

What a delightful View of the noble Art of Phyſick is here preſented to our Eyes!—And yet to ſuch a Degree of Perfection may we hope to ſee it brought, would you but heartily unite your Forces with thoſe of the Empiricks for this purpoſe. It was with a View to promote this worthy Deſign, that I ſat down to propoſe the Treaty which I have done above; and it is with the ſame View that I ſhall now proceed to lay before you a few Articles, which may ſerve for a Baſis to this Treaty, and which I hope will be received with the ſame Candour with which they are propoſed.—

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In the first place, then, as all Monopolies in Trade are hurtful to the Subject, it is humbly proposed, that your Illustrious Society will be graciously pleased voluntarily to surrender the Charter, by which you stand incorporated, to the end that a more extensive one may be procured, and a new Society erected, with the Title of the *Royal College of Empiricks*, into which Practitioners of all Denominations may be admitted without Distinction, provided they can bring Proofs of their being possessed of any *Nostrum*, and will conform to the Laws and Ordinances of the Society hereafter to be made.

Secondly, That as soon as the New Society shall be erected, a Committee may be appointed to draw up a Petition to be presented to Parliament, for Leave to bring in a Bill to prohibit the Use of all Physico-medical Manufactures, (*viz.* Books, *&c.*) which are either imported hither from abroad, or composed of foreign Materials, to wit, *Greek*, *Latin*, &c. to the end

that Phyſick may become entirely *Engliſh*, and be within the Reach of all Capacities.

Thirdly, That all Members of the New Society be ſtrictly enjoined not to ſpend any more time in reading even *Engliſh* Books than is juſt ſufficient to give them a little Fluency of Speech, and enable them to give a tolerable Anſwer to ſuch Queſtions as may be put to them by Nurſes, and ſuch kind of impertinent People, who want to have a Reaſon for every thing which a Phyſician does.—This being the Uſe which ought to be made of all Phyſical Treatiſes, according to the Opinion of a late eminent and voluminous Empirick, whoſe Name I need not mention.

Fourthly, In order to make your Society ſome Amends for the Reſignation of their Properties, it is propoſed that the C—ll—ge of Ph————ns be converted into an Hoſpital, for the Relief and Maintenance of ſuch of your preſent Members, as through a wrong Education, or a long Perſeverance in what is called a Regular Courſe of Practice, are unqualified to turn

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Empiricks, as well as of ſuch, who, thro' a Principle of Conſcience, ſhall refuſe to be admitted of the future College; and that the Revenues of the ſaid C—ll—ge of Ph———ns be applied ſolely to this purpoſe.—Provided nevertheleſs, that after the Deceaſe of the ſaid Collegiates, it be applied to the Uſe and Benefit of worn out and diſabled Quacks, or to ſuch other Purpoſes, as the Society ſhall think convenient.

I come now to ſpeak of the Advantages which are likely to accrue to your Body, as well as to the Publick in general from ſuch an Union. —With regard to your Body then, all ſuch as are willing to be included in the Treaty, will thenceforward be intitled to the Honourable Denomination of Empiricks, and to the Privileges which Empiricks now enjoy; namely, thoſe of being careſſed and honoured by the Great, and of rolling in all kind of Affluence. ——— And that the Title itſelf is no inconſiderable Advantage may be inferred from the Behaviour of ſome who have been ſo ambitious of acquiring

in, as, for its sake alone, to desert your Body, and to go over to the Enemy. ——— Of the Truth of which, the Memoirs of some now alive may perhaps furnish them with Instances.

In the next place, the Younger Part of your Society, whose Time is now greatly taken up in intricate and laborious Studies, will then be at Leisure more constantly to attend those Seats of the Muses the Coffee-houses, which are frequented by their Seniors, and will have Opportunities of profiting more by their Instructions, than can now be done by Reading; which will, no doubt, tend greatly to their own Emolument, as well as to the Advantage of the present Age.

Lastly, Both Old and Young will be more at Leisure to frequent Clubs, Taverns and Assemblies, and other such Places whither good Company resort, and will, at the same time, be discharged from that laborious Employment of reading learned Lectures, and making *Latin* Speeches, besides many other

other diſagreeable Offices too tedious to be here enumerated.

With regard to the Publick in general. Such as hereafter intend to commence Phyſicians will reap this great Advantage, that many Years of Life (which are now uſually thrown away in Schools and Univerſities, in learning the Sciences) will, by this means, be ſaved; and thus, by ſhortning the Road to Science, and adding, as it were, to the Life of Man, that Evil, which *Hippocrates* complain'd of in his Time, will be remedied, and it will no longer be ſaid, That *Life is ſhort, and Art is long; but, that Art is ſhort, and Life is long*; —— and Phyſicians will become as knowing at Twenty-five, as they are now uſually at Fifty: An Advantage which cannot ſufficiently be enlarged upon.

Laſtly, The Road to Science, being ſo much ſhortened, the Number of Phyſicians throughout his Majeſty's Dominions, will, in all human Probability, be much increaſed, and conſequently the Healths of his Ma-

jeſty's

jesty's loving Subjects will be much better taken Care of, than they are at present. I could easily enlarge upon this Subject.—— But a Word to the Wise is sufficient; I shall therefore conclude for the present, with assuring you, that I am, with the greatest Esteem,

GENTLEMEN,

Your most obedient, &c.